

**Maidstone Borough Council
PLANNING COMMITTEE
10 December 2015**

REPORT BY THE HEAD OF PLANNING SERVICES

**The Maidstone Borough Council
TREE PRESERVATION ORDER NO 5052/2015/TPO**

Danefield Court, Church Lane, Bearsted, Kent

EXECUTIVE SUMMARY

This report seeks the permission of the Planning Committee to Confirm without modification Tree Preservation Order No. 5052/2015/TPO to which an objection has been received.

FOR DECISION

RELEVANT PLANNING HISTORY

TA/0168/08 - Notification of intention to reduce by 15% and crown thin by 10% 1 Lime and 1 Sycamore and remove 3 lower branches of 1 Silver Birch. Raised no objection 16 February 2009

15/502263/TCA - Conservation area notification to fell one Maple and to pollard one Lime and one Sycamore at a height of six metres. Split decision: Raise no objection to felling of Maple; Make a Tree Preservation Order in respect of the Lime and Sycamore. 24 June 2015

15/506811/TPO - TPO application to 1no Lime and 1no. Sycamore tree - pollard to a height of 6 metres. Refused 6 November 2015

15/506847/TPO - TPO application to 1no Lime tree - cut back up to a height of 15ft. This work is to be done annually. Permitted with conditions 16 November 2015

SUMMARY TPO INFORMATION

TPO Served (Date): 24 June 2015	TPO Expiry Date 24 December 2015
Served on: Nos. 1-16 Danefield Court, Church Lane, Bearsted, Kent, ME14 4EF	

Copied to: GIS Team Parish Council Land Charges Team Planning Applications Unit		
Representations	Support:	Objections: one

BACKGROUND

The Lime and Sycamore trees subject to this Tree Preservation Order are located in the grounds of Danefield Court, a development of residential accommodation with communal gardens. The site lies within the Bearsted (Holy Cross) conservation area.

The Lime is a large, mature tree, clearly visible from Church Lane and the Car Park to the rear of Danefield Court. It currently reaches a height of around 18m and has an estimated stem diameter (dbh) of 80cm and radial crown spread of 4m. It has been reduced in the past (reported by the owners as 6 years ago, which is consistent with the timing of TA/0168/08 above) at a height of around 15m, and has been crown lifted to around 6 metres.

The Sycamore is also a large, mature tree, clearly visible from Church Lane. It currently reaches a height of around 16m and has an estimated stem diameter (dbh) of 70cm and radial crown spread of 5m to the north side, but less to the south due to competition with the adjacent Lime. It has been reduced similarly in the past at a height of around 14m, and has been crown lifted to around 6 metres.

The conservation area notification 15/502263/TCA stated that the owner's tree surgeon had recommended pollarding the two trees at 6 metres height as decay is present in old pruning wounds. However, no evidence was provided to indicate the position or extent of any decay and ground level, visual inspection did not reveal any significant defects to suggest that the severe pollarding proposed was necessary due to decay.

It was considered that pollarding at 6 metres would leave very little foliage, create very large topping wounds on the main stems and have a significant detrimental effect on the contribution that the trees make to amenity and local landscape quality, reducing them significantly in size to little more than tall stumps of about one third of their current height. The works would not have been in accordance with the recommendations of BS3998:2010 'Tree work - Recommendations'. It was considered that the proposal was not in accordance with current good practice, and that it would be inappropriate arboricultural management which would have had a significant detrimental impact on the long term health and amenity value of the trees.

The trees were therefore made the subject of a Tree Preservation Order, as this is the only mechanism by which the Local Planning Authority is able to prevent works proposed in a conservation area notification.

OBJECTIONS AND CONSULTATIONS

An objection to the TPO was received from the Danefield Court Resident's Association and signed by a number of residents. The reasons for objection are set out below, with the response to the objection being made in italics.

"We are not asking to remove the trees although the Lime tree would probably benefit if the Sycamore was reduced or removed. The Sycamore cannot be seen from the Church Landway area or Church Lane and we have many trees in the area. Trees in 21 Church Lane property can be seen above the roof of our flats."

This report is concerned with the confirmation of the Tree Preservation Order and not the merits of a proposal to reduce the trees. The visibility of the trees from public viewpoints is a material consideration in making and confirming TPOs. The Sycamore is less visible than the Lime from the Church Landway area and Church Lane due to it being behind the Lime from these viewpoints. However, it is still partially visible. Importantly, as the two trees having grown together, they should be considered as a group for the purposes of their management; they currently enjoy the shelter provided by each other and would be more susceptible to crown breakage or windthrow in severe weather if, for example, one was removed or significantly reduced and the other not.

"When planning permission was given to build flats in the garden of Danefield Nursing Home (now 21 Church Lane) the trees were not a problem whilst in their garden but as they have increased in size they are a problem to our flats.

T1 and T2...are only 8ft apart, 23ft from our flats and 4ft from our neighbour's fence. He is concerned as more than half the tree overhangs his garden. T2 is only 3'10" from our Holly Tree"

The close proximity of mature trees to buildings and trees overhanging gardens can cause apprehension to occupiers. This in itself is not considered to be justification to fell, or carry out arboriculturally inappropriate works to trees of perceived amenity value. It is not stated what the specific problems or concerns of the residents and neighbour are. However, there is currently a reasonable spatial relationship between the trees and adjacent buildings such that there is no risk of direct damage from contact by branches.

If trees exhibit defects to indicate potential failure hazard, this can be addressed with works proportional to the risk identified. In this case, no evidence of any such risk has been provided or observed, other than possible (unconfirmed) decay at previous pollard points high in the crown; the severe pollarding proposed in the original conservation area notification is considered a disproportionate and excessive response to such a defect and the making of a TPO was appropriate on that basis. The confirmation of the TPO would not prevent works to address any hazards identified as these can be dealt with via an application or, where urgently necessary, as an exception to the tree preservation regulations.

“On our northern boundary there are 4 Sycamores and other large trees in 21 Church Lane. On our western boundary near the car park fence there are 3 Sycamores belonging to The Mount. We pull up numerous Sycamore seedlings every year and the trees in this area have tar spot on the leaves.”

There are other trees in the area and generally speaking, the lower the number of trees present in an area, the greater the perceived value of those present becomes. In this case, it is considered that the Lime and Sycamore make a valuable contribution to the character and amenity of the conservation area. Their loss (or inappropriate pruning) would be a significant detriment to the local landscape character and their continued protection by a TPO is therefore recommended.

The Sycamore subject to this TPO will contribute to the problem of Sycamore seedlings. It is acknowledged that this is inconvenient, but is not considered to be so severe that confirming the TPO would not be appropriate. Tar spot on Sycamore is a common problem caused by a fungi but is largely cosmetic and has little effect of tree health.

“On 24/12/13 after strong winds during the night two fir trees fell on to our car park resting on two cars and preventing any cars from moving until Tanton's tree surgeons came to help remove them. On 15/02/14 a very large fir tree fell covering our car park area damaging cars. Once again tree surgeons had to come and use chain saws and lifting equipment for us to gain access to our property. Emergency vehicles would not have been able to gain access to the property.

We all have to be over 55 years to live here and some of our residents are over 90 years and need the help of carers daily.

I hope that you understand that we are now more aware of the height of these trees and the danger to our residents, severe damage to our property and our neighbours property due to the height and weight of these trees.

We wish for you to consider whether the Order should be confirmed.”

The particularly strong winds in combination with waterlogged ground from prolonged heavy rain resulted in an unusual number of tree failures locally on 24 December 2013. Our experience was that, almost exclusively, the failures were restricted to conifers and Eucalyptus. This extreme weather event affected large numbers of trees across the south east and is not an indication that the trees on this site are at an elevated risk of failure due to, for example, specific ground conditions in this location. The failure of other trees (some of which might have failed for reasons in addition to the severe weather) is not an indication that the Lime and Sycamore present an abnormal risk. Having large trees fail on your property will understandably increase the perception

of the potential hazard that they pose, but this does not make it reasonable to want to remove risk entirely.

APPRAISAL

The grounds for objection do not raise any issues or provide any new evidence to suggest that it was inappropriate to make the trees the subject of a TPO, or that they should not continue to benefit from ongoing protection by confirming the TPO.

Any need or desire to carry out works to the trees would need to be the subject of a TPO application in future as a result, but this is free and not significantly more onerous than the notification previously required for works to trees in a conservation area. Furthermore, where a tree owner is aggrieved by a refusal of an application for works under a TPO application, they have a right of appeal, which does not exist for conservation area notifications.

In this case, a TPO application (15/506811/TPO) for the same pollarding works to the trees has already been submitted. This has been refused under delegated powers. At the time of writing, no appeal has been received. A TPO application 15/506847/TPO) has also been submitted by the neighbour at Mote Croft, to regularly remove lower branches from the Lime. This has been approved.

In conclusion, the making of a TPO was appropriate response to the pollarding works proposed, as the only mechanism possible to prevent inappropriate works to trees in a conservation area. The owners' desire to prune the trees in such a manner continues, in the absence of any evidence to demonstrate the need for such a severe course of action. It is therefore recommended that the Tree Preservation Order be confirmed, without modification.

RECOMMENDED

Confirm Tree Preservation Order No 5052/2015/TPO without modification.

Contact Officer: Nick Gallavin

Head of Planning Services

Appendix: TPO Schedule for 5052/2015/TPO (TPO plan on front of this report)

Appendix
TPO Schedule

SCHEDULE

Specification of trees

Trees specified individually (encircled in black on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
T1	Lime	Eastern boundary
T2	Sycamore	Eastern boundary

Trees specified by reference to an area (within a dotted black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
	None	

Groups of trees (within a broken black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
	None	

Woodlands (within a continuous black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
	None	